

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

IN RE: MI WINDOWS AND DOORS, INC.     )  
PRODUCT LIABILITY LITIGATION         )  
\_\_\_\_\_ )

**MDL Docket No. 2333**

**SEPTEMBER 2012 STATUS CONFERENCE  
REPORT AND AGENDA**

1. Status of Conditional Transfer Orders/New Case Filings:
  - a. On August 3, 2012, the Judicial Panel on Multidistrict Litigation (“JPML”) transferred the Michigan, Illinois, and Pennsylvania state class actions<sup>1</sup> to this Court for consolidation with MDL No. 2333, thereby denying Defendant MI Windows and Doors, Inc.’s (“MIWD”) Motion to Vacate Conditional Transfer Order. Accordingly, there are now eight (8) Homeowner actions consolidated before this Court, as well as a Contractor action.
  - b. On July 30, 2012, the Panel issued a Conditional Transfer Order of *McGaffin, et al. v. MI Windows and Doors, Inc.*, C.A.N. 12-CV-02462 (U.S.D.C. Kansas) to this Court. On August 14, 2012, Defendant filed a Motion to Vacate the Conditional Transfer. Plaintiff filed its Response in Opposition to that Motion on September 4, 2012. A decision by the JPML is expected in October.
2. Case Management Orders: Homeowner Plaintiffs seek enrollment of CMO Nos. 2 (Initial Discovery), 3 (Preservation and Production Protocol), and 4 (Attorney-Client Privilege and Work Product Doctrine) at the September 19, 2012 status conference. These Orders will be submitted prior to the status conference and the parties will be ready to present their support or opposition orally.
3. Scheduling: Homeowner Plaintiffs request that a Scheduling Order and discovery deadlines be addressed.
4. Protocol for Inspection: A protocol for inspection of windows and homes of the Homeowner Plaintiffs should be determined and should include reports of any modifications or remodeling of the homes at issue. Defendant has indicated that it has retained voluminous amounts of window sashes during warranty or field service work that are in its possession. Homeowner Plaintiffs would like to discuss establishing a preservation and/or inspection protocol.

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<sup>1</sup> *Kennedy v. MI Windows and Doors, Inc.*, Case No. 2:12-cv-01757 in the United States District Court of the Northern District of Illinois; *Walsh v. MI Windows and Doors, Inc.*, Case No. 2:12-cv-02238 in the United States District Court of the Eastern District of Pennsylvania; *Deem v. MI Windows and Doors, Inc.*, Case No. 2:12-cv-02269 in the United States District Court of the Eastern District of Michigan.

5. Scheduling of Next Status Conference. A Status Conference should be set for the first week of November, in accordance with the six (6) week requirement in CMO No. 1.

As the parties were unable to agree on the form and detail of this report, it is being submitted by Homeowner Plaintiffs with due consideration for comments made by others and the deadline for filing.

Respectfully submitted,

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